IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11481 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VALSAD DISTRICT CENTRAL COOPERATIVE BANK

Versus

KRISHNALAL MANILAL VASHI

Appearance:

MR BM MANGUKIYA for Petitioner

MR GM JOSHI for Respondent No. 1

MR RV DESAI, AGP for Respondent No. 2, 3

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 25/04/2001

ORAL JUDGEMENT

#. Heard Shri BM Mangukiya, learned counsel for the petitioner, Shri GM Joshi, learned counsel for the respondent no.1 and Shri RV Desai, learned AGP for the

respondent nos.2 and 3. With their consent, the petition can be finally disposed of at the admission stage.

#. In this petition, the prayer of the petitioner is for quashing the impugned order dated 13-9-2000 passed by the respondent no.2 in Appeal No.6/2000 against the order of the Controlling Authority under Payment of Gratuity Act.

#. The brief facts are that the respondent no.1 retired from service, and on retirement he was given terminal benefits, but gratuity was withheld. Respondent no.1 preferred application before the Controlling Authority under Payment of Gratuity Act praying that the gratuity amount be directed to be paid by the petitioner herein. Objection was filed that the Controlling Authority had no jurisdiction to entertain such application. The Controlling Authority, vide order dated 5-7-1999, allowed the application of the respondent no.1 and directed the petitioner Bank to pay gratuity to the respondent no.1 together with interest at the rate of 12% per annum from 27-12-1997.

#. Feeling aggrieved with the order of the Controlling Authority, the petitioner Bank preferred review application in February, 2000. The Controlling Authority, on review application, held that he had no jurisdiction to entertain the application of the respondent no.1 and directed the respondent no.1 to file application before the appropriate authority. The respondent no.2 passed an order allowing the appeal preferred by the respondent no.1 against the order of the Controlling Authority. The respondent no.2 allowed the appeal of the respondent no.1 and directed the petitioner Bank to make payment of gratuity to the respondent no.1 within 30 days together with interest at the rate of 12% per annum from 27-12-1997. It is, therefore, this petition.

#. Shri GM Joshi, learned counsel for the respondent no.1 states that, in April 2000, the respondent no.1 has preferred application before the Controlling Authority of the Central Government. The only question for dispute in this petition is, who is the appropriate authority who could decide the application of the respondent no.1 for payment of gratuity.

#. Now, in view of the statement of Shri GM Joshi, since the application has been moved before the Controlling Authority of the Central Government, he has no objection if the petition is allowed. Accordingly, the petition is allowed. The impugned order of the respondent no.1 dated

13-9-2000 in Appeal No.6/2000 is quashed and set-aside.
No order as to cost.

April 25, 2001. [D.C. Srivastava, J.]

/sakkaf